

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

R WAYNE JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:16cv976-MHT
)	(WO)
U.S. POSTAL SERVICE,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On January 5, 2017, this court entered an order (Doc. No. 2) directing Plaintiff to file by January 19, 2017, either the \$400.00 filing/administrative fees or an affidavit in support of a motion for leave to proceed *in forma pauperis* accompanied by relevant financial information from the inmate account clerk.¹ In its order, the court specifically cautioned Plaintiff that his failure to comply with the order would result in a recommendation that the case be dismissed. *Id.* at 2.

The requisite time has passed, and Plaintiff has failed to submit either the filing/administrative fees or an affidavit in support of a motion for leave to proceed *in forma pauperis* with relevant financial information in compliance with this court's orders.² The court therefore concludes that dismissal is appropriate. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir.

¹ Plaintiff is an inmate at the Clements Unit, a state prison of the Texas Department of Criminal Justice located in Amarillo, Texas.

² On January 17, 2017, the court received Plaintiff's motion for recusal of the undersigned Magistrate Judge. Doc. No. 3. As grounds for recusal, Plaintiff argued that the court's order of January 5, 2017, violated his due process rights by requiring him to disclose his financial information, and evidenced bias by the Magistrate Judge. *Id.* at 1-2. Plaintiff's motion for recusal was denied by an order of United States District Judge Myron Thompson entered on January 18, 2017. Doc. No. 4.

1989) (as a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failure to comply with the court's orders.

It is further

ORDERED that the parties shall file any objections to this Recommendation or before March 13, 2017. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) will bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11th Cir. R. 3-1. *See Stein v. Lanning Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE, on this the 27th day of February, 2017.

/s/ Susan Russ Walker
Susan Russ Walker
Chief United States Magistrate Judge